

**New York State Department of Health
TRAUMATIC BRAIN INJURY PROGRAM
HOUSING PROGRAM GUIDELINES**

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Introduction

The Traumatic Brain Injury Program (TBI) Housing Program Guidelines provides information to Regional Resource Development Centers (RRDCs), Service Coordinators (SC); and others who assist TBI waiver participants to receive rental subsidies and/or housing support funds through the TBI Housing Program.

Only those actively receiving services from the New York State Department of Health (NYSDOH) 1915(c) Home and Community-Based Services Medicaid (MA) waiver for Individuals with Traumatic Brain Injury are eligible to receive these benefits. The TBI Housing subsidy is not a waiver service, and not all TBI waiver participants require or are eligible to receive a housing subsidy or housing support assistance.

Each TBI waiver participant has unique housing needs. Some individuals enroll in the waiver after lengthy nursing home stays and no longer have sufficient support to maintain a living situation in the community. Others may find that, as a result of their injury or change in their living situation, their community residence no longer accommodates their needs.

The TBI Housing Program is primarily a rental subsidy program the provision of which is consistent, to the extent applicable, with federal Housing and Urban Development (HUD) standards. This includes guidelines for fair market value (FMV) rental costs, financial disclosure, household use and composition, tenant responsibilities and the demonstrated individual needs of waiver participants. Every effort will be made to assist an individual in finding available HUD or housing finance programs to meet their housing needs.

The goal of the program is to address housing related barriers to community based long term care until alternative funding arrangements become available through HUD Housing Choice Vouchers, other housing finance programs, or the participant's personal resources. The Program does not enter into mortgage agreements with banks or financial organizations on behalf of a TBI waiver participant, and does not support "rent to own" agreements.

The TBI Housing Program is a service of last resort and offered only after all other personal, federal, and State resources are exhausted.

Principles of the TBI Housing Subsidy

People with a TBI should be afforded the opportunity to live in appropriate community integrated, safe, and accessible housing.

People with TBI should be offered a variety of housing options.

The TBI Housing Subsidy Program is not a waiver service. Receipt of a subsidy is contingent on the participant's eligibility and active participation in TBI waiver services.

People receiving a housing subsidy may not share a single dwelling with more than four (4) unrelated individuals.

Each individual receiving a housing subsidy must have their own bedroom with adequate living space.

In order to provide the necessary supports, NYSDOH assumes compliance with program standards by subsidy recipients, participating landlords, realtors and housing management corporations and service providers.

Requirements for Participation

Rental subsidies, one time payments and assistance with utility costs are available to eligible waiver participants who are actively receiving waiver services to help them maintain accessible affordable housing within fair market rates. The TBI Housing Subsidy Program is a limited funding resource. Availability of initial and continued funding of housing supports is contingent on annual appropriations provided through the New York State Legislature. For this reason, lease agreements must not be signed for more than one (1) year.

The Regional Resource Development Center (RRDC) is responsible for determining which waiver applicants are eligible for housing funds based on the housing and financial needs of an applicant. NYSDOH approves the subsidy request.

Each individual must:

- be a participant in the TBI MA Waiver, have an approved service plan and actively receiving services;
- be eligible for Medicaid with coverage for HCBS services; (Individuals with excess income must arrange to meet their obligation on a monthly basis through a spend-down in order to maintain full Medicaid eligibility);
- be financially unable to obtain and maintain housing at fair market value in the community without supplemental rental subsidies.

TBI waiver participants must agree to:

- disclose all available financial resources including but not limited to: Social Security Disability Insurance Supplemental Security Income (SSD/SSI), Special Needs Trusts (SNT), Workers Compensation, and Insurance settlements. If a participant's SNT includes provisions for housing support, this resource must be requested prior to approval of a housing subsidy;
- make application and keep current, all available public housing options , including HUD Housing Choice Vouchers, other rental subsidies;
- contribute one-third (1/3) of his/her monthly income (after spend-down) towards fair market rent;
- adhere to the terms of his/her lease, comply with the standards of the TBI Housing Subsidy and TBI Waiver Program Manuals, and fulfill the service requirements

- established in their service plans; and
- adhere to all rules regarding non permitted actions under federal housing policy (including but not limited to possession, manufacture or sale of methamphetamine and related chemical entities.)

The TBI Housing Subsidy program funds are a resource of last resort, to be used only for rental subsidies, moving expenses, broker's fees, housing supports and related expenses and utility costs. Once approved, the TBI rental subsidy will remain available to the individual as long as:

- he/she continues to be eligible for the TBI waiver, has an approved service plan and is actively receiving services;
- continues to demonstrate financial need;
- complies with the requirements of the TBI Housing Subsidy Program;
- the individual maintains an active application for the HUD Housing Choice Program or other available subsidies; and
- funding is available through the New York State Enacted Budget

The TBI Housing Subsidy program is provided to assist individuals in meeting the costs of reasonably priced, accessible housing. It is not a grant to offset more expensive rental costs or mortgage obligations. The cost of the rental unit must be within the HUD established Fair Market Rent (FMR) guidelines. The participant may not increase their share of the rent to offset the cost of unit that is above FMR. A participant may not leave the Section 8 HUD program in order to apply for TBI subsidized housing.

A TBI waiver participant may not receive a TBI housing subsidy while receiving the benefit of any other housing subsidy for the same or different unit. This may include but is not limited to:

- Public/federal Bureau of Indian Affairs housing assistance
- Tenant-based assistance under the HOME Program
- Any other federal, State, or local housing subsidy

All waiver participants should be encouraged if appropriate to apply for food stamps and Home Energy Assistance (HEAP) to supplement their income. This assistance is not considered as income when determining financial eligibility for a housing subsidy. A request for a utility subsidy will not be approved unless application to HEAP has been made. Utility subsidy amounts may be adjusted upon receipt of HEAP funds.

Participants are referred to the TBI Housing Subsidy Program by their Service Coordinator, for approval by the TBI waiver Regional Resource Development Center (RRDC) and NYSDOH TBI waiver management staff.

The payment standard will be based on the allowed number of bedrooms provided for by the Housing Subsidy Program. The participant will be responsible for the additional costs associated with extra bedrooms from their own resources.

The TBI Housing Subsidy payment standard will not be adjusted to support living arrangements that are not at fair market rent and/or the approved size of the unit.

Role of Regional Resource Development Center (RRDC)

There are nine Regional Resource Development Centers located in designated regions throughout the State. (attachment #1)

RRDC staff are responsible for the oversight of the TBI Housing Subsidy program in the region in conjunction with NYSDOH. The RRDC is responsible for maintaining up-to-date data of all active participants receiving subsidies, monitoring their housing related expenses, and insuring that funds are allocated appropriately.

In conjunction with NYSDOH, the RRDC approves waiver participants for the TBI Housing Subsidy Program and must assist Service Coordinators in assessing the housing needs of waiver participants. The RRDC also prioritizes the housing needs for their region, projects costs of rental subsidies/ housing supports and utilities, and monitors the expenditures.

On a yearly basis, the RRDC will conduct home visits for a minimum of five percent (5%) of all housing subsidy recipients. The home visit includes:

- Verification of information provided by the Service Coordinator, participant and/or landlord;
- Confirmation of the members of the household;
- Confirmation of the condition of the home and compliance with home quality standards.

During these visits, the RRDC staff may also review the participant's household budget. The most recent utility bills may be requested as a means of verifying that the participant is successfully meeting their financial obligations on a monthly basis.

An annual review of the Housing Quality Standards (HQS) Checklist is also required to ensure that housing continues to meet established standards.

The RRDC will investigate and respond to complaints by participants, landlords/owners and neighbors. All complaints and resolutions will be documented.

Additional responsibilities of the RRDC include:

- Provide training and technical assistance to Service Coordinators in completing the necessary paperwork and data input to maintain the housing subsidy and insure compliance with the program guidelines;
- Approve or deny requests for funding in accordance with program guidelines;
- Maintain data of TBI Housing Subsidy Program recipients and the funds allocated;
- Review the TBI Housing Quality Standards Checklists for each participant to verify that their housing meets the minimum standards established for the program in accordance with TBI Housing Program Guidelines;
- Identify possible deficiencies in the quality of subsidized housing and take the necessary steps to remedy deficiencies;
- Communicate with the Service Coordinators regarding any housing issues and provide assistance with remediation as needed;
- Complete a regional audit on an annual basis of all subsidies and support provided;
- Insure that each application represents an individual designated as needing housing in his/her region;
- Review and approve housing subsidy paperwork/data for their region and then authorize the payment in conjunction with NYSDOH by submitting the request to the Payment Agent;
- Monitor and approve all entries into the housing web portal developed by the Payment Agent and entered by Service Coordinators.

Grounds for Denial of an Application

NYSDOH may deny housing assistance to applicants and participants who:

- Do not meet eligibility criteria;
- Do not supply required information or documentation;
- Fail to complete any aspect of the leasing process;
- Have a history of criminal activity or unsafe/dangerous behaviors that would adversely affect the health, safety or well-being of other waiver participants, staff, neighbors, and/or landlords, or cause damage to the property;
- Currently owe rent or other obligations to landlords, management companies or public housing entities;

- Have committed fraud, bribery or any other corruption, including intentional misrepresentation of information related to their housing subsidy or benefits derived from their participation in the housing program;
- Have a room-mate, family member or co-habitant who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety or right of peaceful enjoyment of the premises by other residents;
- Have engaged in threatening abusive or violent behavior to any waiver support staff, landlord or neighbor;
- Demonstrate any socially inappropriate behavior that threatens waiver support staff and neighbors;
- Have a room-mate or co-habitant who has been convicted of manufacturing or producing any illegal substance including but not limited to methamphetamine.

NYSDOH *may* choose to waive these requirements if the participant:

- demonstrates to RRDC satisfaction that he/she is no longer engaging in drug related criminal activity or abuse of alcohol;
- been successfully rehabilitated as indicated by appropriate clinical recommendation;
- participates in rehabilitative services and no longer presents a threat to him/herself or others.

Any waiver of this requirement must be requested and approved by NYSDOH prior to approving the subsidy.

Role of TBI Housing Payment Agent

The Payment Agent is responsible for processing statewide rental, utility and one-time payments to landlords, utility companies and other payees once an application is approved by the RRDC and NYSDOH.

The Payment Agent communicates directly with the RRDC, Service Coordinators, and NYSDOH. The Payment Agent is not required to, but may respond directly to landlords, or waiver participants regarding payment issues.

The Payment Agent processes subsidy approvals as they are received from the RRDC. Any discrepancies or problems will be communicated directly to the RRDC responsible for resolving the issue.

Once an initial monthly rental or utility subsidy is approved by the RRDC and received by the Payment Agent, it will be automatically generated each month. The subsidy will not end until a change request is completed, approved by the RRDC and received by the Payment Agent.

The Payment Agent is responsible to track all expenditures, recoupments and reconciliations and provides a detailed tracking of all subsidy and housing support payments to NYSDOH on a monthly basis.

The Payment Agent is also responsible for notifying NYSDOH and the RRDC of any identified overpayments of rent and utilities or potential recoupment of security deposits.

The Payment Agent is responsible to train all “end users” of the web portal and data systems.

Role of the Service Coordinator and Service Coordination Agency

In addition to assisting with the completion of TBI Housing Subsidy forms, the Service Coordinator, under the direction of the Service Coordination agency, helps the waiver participant to:

- identify their individual housing needs;
- evaluate their finances and potential payment obligations for rent and utilities, including

assisting with the development of a basic household budget to address on-going monthly income and monthly payment obligations for items such as rent and utilities;

- review other possible housing options within the community;
- arrange the final details, including lease review and signing, coordination of necessary rent, utilities and household goods to assist the waiver participant to occupy their community residence;
- maintain housing quality standards of their home;
- monitor eligibility for the TBI Housing Subsidy Program: inspect the home on a routine basis and review documentation to support financial and programmatic need;
- facilitate the participant's move to the HUD Housing Choice Program; and
- provide oversight of payments and account balances.

The Service Coordinator must reinforce with the participant the importance of meeting payment obligations. The Service Coordinator is responsible for the oversight in determining whether the participant is meeting those obligations on a monthly basis. The TBI Housing Subsidy Program is not responsible for payment of rental arrears that have occurred as a result of the participant's failure to make payments or plan accordingly. Service Coordinators are required to inform participants of their payment responsibilities and to advise participants how to apply to the Local Department of Social Services (LDSS) for assistance.

The Service Coordinator is also responsible for tracking changes in rent and utilities. Rent increases must be reviewed to ensure that the increase is in accordance with TBI Housing Subsidy guidelines and local ordinances. The amount of the participant's housing and/or utility subsidy(s) must be updated and adjusted accordingly. Since the participant's portion of their rent is based on their income and resources, their portion will change in response to their financial circumstances, such as an increase in their income or the addition of roommates or family members residing in the home.

A change in the amount of monthly rental and/or utilities costs will require an adjustment to the amount of the TBI Housing Subsidy monthly payment and may require an adjustment to the participant's payment share.

The Service Coordinator performs the following tasks:

- Assists the waiver participant with completion of applications for HUD Housing Choice Vouchers, HEAP or other public housing as required by the TBI Housing Program; copies of these applications, as well as their status (denied, approved, pending) must be maintained in the participant's case record/file. Status of applications must be periodically (at least yearly) verified and updated;
- Assist in locating desirable, affordable, accessible housing of an individual's choice that meets fair market rents for housing in the region;
- Assist with landlord/owner interactions and negotiations, as necessary;
- Coordinate with the waiver participant to ensure that their portion of rent is paid to the landlord;
- Arrange for moving and repairs, as necessary, and acquire prior approval from the RRDC;
- Assess and monitor the rental property initially and annually thereafter, using the TBI Housing Quality Standards Checklist, and by visiting and inspecting the home and taking pictures;
- Assist the participant in resolving housing issues;
- Perform inspections of the property as needed.

The Service Coordinator is responsible for maintaining up-to-date housing data for each participant in receipt of TBI Housing Subsidy Program assistance. This information includes, at a minimum, the following documents:

- Housing Contact information: landlord/owner, address, phone number, email addresses and relationship to the participant;

- Leases which indicate the rental dates; monthly rent; amount of participant's rent obligation; and landlord/rental agent contact information;
- Copies of the Certificate(s) of Occupancy and any fire inspections;
- Copies of current and all previous leases signed by the participant;
- Copies of utility bills;
- Copies of all TBI Housing Subsidy Program forms and requests for payment;
- All information related to one time payments;
- Housing Quality Standards Checklists;
- Financial documentation to support eligibility for the Housing Subsidy program; and
- Initial Waiver Participant Attestation and annual signed Waiver Participant Contract.

All subsidized housing must be assessed by the Service Coordinator using the TBI Housing Quality Standards Checklist before a waiver participant takes residence, annually and when emergency repairs are required. Housing deficiencies must be remedied before the waiver participant takes occupancy or within established timelines after occupancy occurs and the Plan of Correction is noted on the Checklist.

The Service Coordination agency, RRDC and Payment Agent are responsible for training the Service Coordinator about the requirements and processes of the TBI Housing Subsidy Program. The RRDC in conjunction with the Payment Agent can provide technical assistance on the submission of all requested data.

The TBI Housing Subsidy is to be reassessed by the RRDC in conjunction with the Service Coordinator on an annual basis, and must support the goals and intent of the participant's service plan.

If at any time a Service Coordinator notes a potentially serious housing deficiency or situations that do not meet the TBI Housing Quality Standards, the Service Coordinator will contact the landlord/owner and notify the RRDC. The Service Coordinator may be required to assist the participant with relocation to other affordable and suitable housing or termination from the Housing Subsidy (should they be responsible for the conditions).

All concerns about housing deficiencies are to be addressed in writing to the RRDC.

Working with TBI Waiver Participants To Identify Housing Needs

The Service Coordinator is responsible to clearly present and specify to the participant that the TBI Housing Subsidy Program is only available to those who are active participants receiving TBI Medicaid Waiver services and who demonstrate an identifiable financial need. It must also be made clear that the TBI housing subsidy is not payment in full or a guarantor of rent and is the payer of last resort.

The Service Coordinator's role is to assist the waiver participant in locating affordable housing considered typical for the community.

The Service Coordinator is responsible to ensure that emergency plans are in place, and that the plans have been reviewed with the participant. Emergency plans should be prominently posted within the unit. Additional copies should be readily available for friends or family members. The plan should address, at a minimum, the following:

- What to do in case tenant becomes locked out
- Evacuation procedures in case of an emergency
- Location of closest hospital emergency room
- List of emergency phone numbers in an accessible place
- Emergency transportation arrangements

Initial Application

When a waiver participant makes an initial housing subsidy application he/she is required to provide complete and accurate information regarding the household composition, personal assets and income. (attachment # 2 Payment Request) The information provided in the application and approved by the RRDC and NYSDOH authorizes the Payment Agent to proceed with payment. Failure to present correct and true information may result in the denial of the application.

The RRDC is responsible for ensuring that each application represents an individual designated as a current waiver participant actively receiving services in need of housing based on financial need, and that there is sufficient funding to support the projected subsidy and housing support costs for that individual.

Prior to submission to the Payment Agent, the Participant/Service Coordinator and RRDC staff will review each application to insure accuracy and completeness. Any incorrect payments made based on inaccurate application information may result in recoupment from the Participant/Service Coordination Agency and/or RRDC or denial of the subsidy.

The Service Coordinator is responsible to notify the RRDC and the Housing Payment Agent of any changes in the status of the participant in a timely manner. Any payments made as a result of failure of proper and timely notification that is not recouped from the landlord/owner may be charged to the Service Coordination Agency and/or RRDC.

A copy of all housing information, annual updates and subsequent requests must be maintained by the Service Coordination Agency and the RRDC.

Lease and tenancy

A lease is a contract between a landlord and a tenant which contains the terms and conditions of the rental. It cannot be changed while it is in effect unless both parties agree. A party must sign the lease in order to be bound by its terms. Any changes to a lease should be initiated by both parties. At a minimum, leases should identify the premise, specify the names and addresses of the parties, the amount and due dates of the rent, any additional fees associated with the unit (late fees), the duration of the rental, the conditions of occupancy, and the rights and obligations as agreed to by both parties.

The tenant/participant must have legal capacity to enter a lease under State and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the landlord/owner.

The tenant/participant and the landlord/owner must enter a written lease for the unit. The lease must be executed by the landlord/owner and the tenant and cannot exceed one (1) year.

If the landlord/owner uses a standard lease, the lease must be in a standard form consistent with documents used for all other tenants. Leases must use words with common and everyday meaning and must be clear and coherent.

If a lease states that the landlord may recover attorney's fees and costs incurred if a lawsuit arises, a tenant automatically has a reciprocal right to recover those fees as well.

If the landlord/owner does not use a standard lease form, the landlord/owner may use another form of lease, such as an RRDC contract or model lease. (attachment #3) The RRDC may review the lease to determine if the lease complies with program policies. The RRDC may decline to approve the tenancy, if it is determined that the lease does not comply with TBI Housing Subsidy Program standards.

If the tenant/participant and the landlord/owner agree to any changes in the lease, such changes must be in writing, in accordance with the requirements of the TBI Housing Subsidy Program, and the landlord/owner must immediately give the participant/Service Coordinator/RRDC a copy of such changes. A lease may only be broken for justified cause (life/safety, poor conditions) and approved by the RRDC.

Housing assistance shall not be continued unless the Participant/Service Coordinator/RRDC approves the new lease agreement.

All lease information must be reviewed and approved on an annual basis by the Service Coordinator and RRDC. An annual audit of all housing files is completed consistent with the state fiscal year.

The tenant/participant must notify the Service Coordinator/RRDC of any changes in the rent amount at least thirty (30) days before any such changes go into effect

It is illegal for any person to require a prospective tenant to pay a bonus, commonly called "key money," above the lawful rent and security deposit for preference in renting a vacant apartment. Key money is not to be confused with fees that may be legally charged by a licensed real estate broker.

Term of the Lease

The term of lease must be for one (1) year. During the term of the lease, the landlord/owner may not increase the rent. The initial rent must be within the Fair Market Value (FMV).

Annual rent increases must be in compliance with local ordinances related to rental stabilization and/or the Rent Guidelines Board. For purposes of the TBI Housing Subsidy, the rent adjustment in any one year may not exceed five percent (5%) of the established rent amount. Landlords may seek rent increases for certain types of building-wide major capital improvements that benefit all tenants, such as the replacement of a boiler or installation of new equipment. Rents may be increased for substantial increases in dwelling space, new equipment, improvements or furnishings.

All rental increases require prior approval from the RRDC for payment by the TBI Housing Subsidy Program; in certain situations, the RRDC *may* approve increases above five percent (5%) per year, with prior approval by NYSDOH and additional justification.

Landlord/Owner Termination of Tenancy

A tenant/participant with a lease is protected from eviction during the lease period so long as the participant does not violate any substantial provision of the lease or any local housing laws or codes. Landlords must give formal notice of their intention to obtain legal possession of the living arrangement.

During the term of the lease, the landlord/owner may terminate the tenancy per NY state and local law regarding lease terminations and eviction. A participant may only renew the lease with the consent of the landlord and RRDC. Landlords may refuse to renew a lease with cause. Until the new signed lease is returned to the tenant, the lease is not effective, and therefore, the rent increase portion, need not be paid. Participants must review and sign their lease in a timely manner or jeopardize their continued participation in the TBI Housing Subsidy Program. Any costs incurred as a result of their failure to timely execute the lease may become the responsibility of the participant.

A tenant/participant can legally be evicted only after the landlord has brought a court proceeding

and has obtained a judgment of possession. The landlord/owner must give a copy of any eviction notice to the tenant/participant. A tenant/participant should never ignore legal papers; an eviction notice can still be sent if a tenant did not appear in court to answer court papers (petition) sent by the landlord. The TBI waiver participant is responsible to provide a copy to his/her Service Coordinator. This information will be relayed to the RRDC upon receipt by the Service Coordinator. Failure to provide sufficient notification to the RRDC may result in the participant and/or Service Coordinator being charged for any payments made by the subsidy that cannot be otherwise recouped. The landlord/owner may only evict the tenant from the unit by instituting a court action.

Participant Absence from the Dwelling

Any information or certification requested by the RRDC to verify that the participant is living in the unit must be provided to the RRDC by either the Service Coordinator and/or the participant.

If the participant plans on being absent from the dwelling for thirty (30) days or more, they must notify their Service Coordinator and/or RRDC. The Service Coordinator must promptly notify the RRDC of the participant's absence from the unit.

Absence means that the participant has not resided in the unit for thirty (30) or more days. The participant and/or Service Coordinator must request permission in writing from the RRDC to extend their subsidy for absences that will exceed thirty (30) days.

The RRDC will make a determination within five (5) business days of the request. An authorized absence may not exceed any timeline established in the lease or cannot exceed ninety (90) consecutive days. Any participant absent for more than thirty (30) days without authorization may be terminated from the TBI Housing Subsidy program.

Authorized absences may include, but are not limited to:

- prolonged hospitalization;
- absences beyond the control of the participant (e.g. death in the family, other family member illness); or
- other absences deemed necessary by the Service Coordinator and/or RRDC.

Individuals may be readmitted to the TBI Housing Subsidy program if their assistance has been terminated due to authorized absences.

Sub-Leasing of Subsidized Housing is prohibited.

Subletting and assignment are methods of transferring the tenant's legal interest in an apartment to another person. To sublet means that the tenant is temporarily leaving the apartment and therefore is transferring the use of the apartment to another person. To assign a unit means that the tenant is transferring the entire interest in the apartment lease to someone else and is permanently vacating the premises. Sub-leasing or assigning of a residence subsidized by the TBI Housing Subsidy Program is prohibited. The subsidized unit is to be used solely as the primary residence for the TBI waiver participant and the lease cannot be transferred.

Housing Types that may be Supported by a Housing Subsidy

The TBI Housing Subsidy Program will only approve the following housing rental types:

- Single family dwellings;
- Duplex or two family dwellings;
- Apartments, landlord owned condominiums or cooperatives;
- Manufactured/mobile housing;

- Manufactured/mobile home space rentals;
- Shared Housing (no more than four unrelated individuals residing together);

Participant Living Alone, with His/Her Family, or Unrelated Individuals

Waiver participants living alone generally live in one (1) bedroom apartments or studios, and are required to contribute one-third (1/3) of their income (after MA spend-down) towards rent. The TBI Housing Subsidy Program pays the remainder of the fair market rent directly to the landlord or designated payee. In order to receive a TBI housing subsidy, financial need must be established by the participant, justified by the Service Coordinator and submitted to the RRDC. When an individual lives with other co-payers, the cost of his/her rent may be reduced to a level that does not require a rental subsidy.

Waiver participants living with a spouse in their own home are not eligible for a TBI rental subsidy. The TBI Housing Subsidy is not intended to be used to purchase homes for individuals and their families, and as such, does not pay mortgages or otherwise pay participants' spouses for dwelling in what is essentially their own home. However, to the extent possible, the Service Coordinator/RRDC will try to find resources to assist homeowners. They may also refer individuals to other housing resources in their communities, such as public housing authorities or federal Housing and Urban Development (HUD) lenders that may be able to provide additional assistance.

Waiver participants living with family members in a rental unit will have their housing costs considered within the following context. If the TBI participant and their family mutually agree to maintain a rental unit together, a housing subsidy may be allowable if the following requirements are met:

- The housing must be within the parameters of fair market rent for affordable accessible housing as established by the federal HUD Housing Choice Vouchers program;
- The living areas and number of bedrooms should be adequate for the comfort, privacy and safety needs of the participant and family members;
- All adult family members (over the age of eighteen (18) unless a full-time student under the age of twenty-five (25)) are required to pay their fair share of the rent. If other family members receive public assistance, they must contribute their fair share towards the cost of rent. Students will be asked to demonstrate proof of their student status;
- Income received for children in the family, such as Social Security Assistance (SSA) benefits, that includes support for housing, will be considered as part of the total family income;
- Family member is defined as a: husband, wife, son, daughter, father, mother, brother, sister, stepparents, stepchildren and in-laws.

When the participant is living with another unrelated tenant who also has a spouse or child, the total monthly subsidized payment will be one third (1/3) of fair market rent for an apartment with the appropriate number of bedrooms. The participant is required to contribute one third (1/3) of his/her total monthly income toward this payment. A spouse and/or adult child (eighteen (18) years of age or older and not a full time student must also contribute to the monthly payment using the same guidelines as above.

A participant/tenant must notify the landlord and the Service Coordinator/RRDC of the name(s) of any occupant of the apartment or changes in tenancy within thirty (30) days of the change.

Waiver participants choosing to live in a family owned home (non-spousal) must have his/her own bedroom, and share common space with the family. In this circumstance, in order to receive a subsidy, the waiver participant is required to pay a monthly amount (rent) documented in a lease agreement or Memorandum of Understanding.

When a waiver participant is living in a family owned home, the calculation of the monthly housing subsidy is based on one-half (1/2) of the fair market rate for a one (1) bedroom apartment in the county where the participant resides. The participant is required to contribute one-third (1/3) of his/her total monthly income toward their housing payment. A spouse and/or child residing with the participant must also contribute to the monthly payment. The total number of bedrooms in the home or the owner's mortgage amount has no impact on the housing subsidy calculation. .

If the participant is to reside in a separate living arrangement/apartment included within the family residence, the unit must have a Certificate of Occupancy (C of O) indicating a two (2) family home, and must have passed all required inspections. The subsidy calculation, in such cases, will be based on the fair market rent for a one-bedroom apartment in the geographic area.

Subsidy Calculation Method

Allowable housing subsidies are based on the participant's total annual income after MA spend-down, which includes all financial resources available to the participant for support in the community before any taxes, deductions or exclusions. Annual income also means amounts derived during a twelve (12) month period from assets to which any adult member of the household has access.

Annual income includes but is not limited to:

- The full income amount after MA spend-down including salary, honoraria, overtime pay, commissions, fees, tips, bonuses, donations and compensation for personal services;
- Interest, dividends and other net income of any kind from real or personal property;
- Welfare Assistance, TANF, Public Assistance
- Social Security benefits, retirement funds, pensions, annuities, insurance policies, disability or death benefits including, but not limited to, lump sum or prospective monthly amounts;
- Payments in place of earnings such as unemployment and disability compensation, worker's compensation, and severance pay;
- Victims of Violent Crimes Compensation, court awards, alimony and child support;
- Routine income guaranteed through the provisions of a special needs trust and regular contributions or gifts received from organizations or from persons not residing in the housing unit.

HEAP, Food stamps, and Foster Care Income is excluded from the calculation,

Participants must report *all income amounts and sources in writing* at the time they seek a housing subsidy and upon review of their service plan. The waiver participant certifies that all information provided to the Service Coordinator/RRDC is true and correct. Any change in income must be reported at the time it occurs. Any change in the status of the household, e.g. people residing in the home, must be reported at the time of the change.

Any entitlements received for or by minor children residing with the participant will be included in the participant's income amount. A participant must have legal custody of a minor child for more than fifty percent (50%) of the time in order for the child to be considered in determining the necessary number of bedrooms for the family.

The Housing Subsidy does not support own home financing.

The TBI Housing Subsidy does not provide income deductions for: medical, disability, children, childcare, or utilities. Income is calculated after Medicaid (MA) spend-down.

A special needs trust (SNT) is created to ensure that beneficiaries (participant/applicant) can enjoy the use of property which is intended to be held for their benefit. The purpose of the special needs trust is to enhance the quality of life for the person. The term "special needs" is used in this discussion to describe any trust that is established to fund the supplemental needs of an individual with disabilities (waiver participant/applicant) while maintaining that individual's eligibility for services. As the name implies, special needs trusts are designed to hold assets in trust and can be used to pay for the beneficiary's special or supplemental needs which the government does not provide. These trusts typically pay for things like education, recreation, counseling, and medical attention beyond the simple necessities of life. However, the trustee may use trust funds for food, clothing, and shelter if doing so is in the participant's best interest. SNT's frequently provide shelter in-kind by purchasing or renting housing on behalf of its beneficiary. However, most SNTs do not specifically address housing assistance programs. Since there are a number of different types of trusts, each trust must be reviewed individually to determine if funds are dedicated in the trust to support the participant's housing.

- A copy of any SNT must be included in the application for a housing/utility/household goods subsidy.
- All possible funding sources must be explored prior to requesting a housing subsidy.
- Prior to approval of a subsidy, the Trustee must be contacted by the RRDC/Service Coordinator and documented in the narrative.
- The denial by the SNT to provide housing support must be verified prior to approving a subsidy.

Family Guests

Participants in the TBI Housing Subsidy program are permitted to have a guest or guests in the household. If the guest resides in the unit for more than fifty percent (50%) of the time or routinely four (4) nights per week, the guest(s) will be considered an unauthorized household member. Arrangements must be made with the Service Coordinator/RRDC to amend the lease and housing subsidy to reflect adjusted equitable share or the "guest" must vacate the premises.

Should additional roommates move in, apartment space must be reassessed by the Service Coordinator and/or RRDC to address the participant's needs and share of the rent. Subsidy calculations will be reconfigured to reflect the waiver participant's fair share. Landlords must be notified of any new occupants to the residence and the lease amended to reflect the names of the additional tenants.

Certificate of Occupancy (C of O)

In order to better protect waiver participants and ensure that the subsidized property meets local building standards, NYSDOH requires all property receiving a TBI Housing Program rental subsidy have documentation of a current Certificate of Occupancy (C of O).

An acceptable C of O identifies the address of the property, the number of residential units certified and the approved use for the building. The dates of issue and termination of certification are noted on the document. The certification *may* be approved for several years or *may* be re-issued when:

- An initial occupation of a new building occurs;
- An alteration to an existing building occurs;
- There is a change in use of the building;
- A building permit is issued;
- A documented certificate of occupancy has expired.

Documentation of a C of O may be obtained from the landlord/owner, the local Building

Department or from a Building Department website. It is the responsibility of the landlord/owner to produce the document. The Service Coordinator is responsible to maintain a copy and to send a copy to the RRDC.

The TBI Housing Subsidy Program will not subsidize any housing that does not have a current and appropriate C of O. In cases where documentation indicates the reason why a C of O could not be obtained, the landlord/owner must provide proof of fire inspection by the local authority. Note that in cases where a family has established a separate living arrangement attached or included in their property that is subsidized by NYSDOH, documentation that it is a "legal apartment" must be provided to the RRDC prior to authorizing the subsidy.

Manufactured or Mobile Homes

A manufactured home park is land which is used to accommodate three or more manufactured homes occupied for year-round living. The TBI Housing Subsidy Program supports mobile/manufactured home lot rentals. Generally a lot rental is well below the fair market rent for a one bedroom apartment in the same county. The RRDC must approve all requests for lot rentals. The TBI Housing Subsidy does not support "rent to own" payments.

Tenants in a manufactured/mobile home park are entitled to a livable, sanitary and safe park, including all common areas, roads and lot. Lease provisions inconsistent with this right are illegal and unenforceable. Failure to provide water or other essential utility services, or to repair sewer problems are examples of a violation of the lease. Park owners may not willfully or intentionally fail to provide any service or facility once they have agreed to do so.

In order to receive a TBI Housing Subsidy, tenants/participants are required to execute an annual lease with the park owner. All other requirements associated with the TBI Housing Subsidy apply.

Park owners are required to provide tenants ninety (90) days notice of any assessments or fee changes.

Manufactured home and mobile home parks generally are fairly regulated by local government for the benefit of both the home resident and other citizens of the municipality. Therefore, it is imperative that the tenant/participant receiving a TBI Housing subsidy for their lot rental has reviewed all local ordinances and rules and received all of the approvals necessary to maintain the home in the park.

Housing Quality Standards (HQS)

Tenants have the right to a livable, safe and sanitary apartment. This is a right that is implied in every written residential lease. Any lease provision that waives this right is contrary to public policy and is therefore void. Any uninhabitable condition caused by the tenant/participant or persons under their direction or control does not constitute a breach of the warranty of habitability.

Landlords must keep apartments and the building's public areas in "good repair" and clean from vermin, garbage or other offensive material. Landlords are required to maintain electrical, plumbing, sanitary, heating and ventilating systems in good and safe working order.

Housing Quality Standards (HQS) are minimum standards for tenant-based programs and are required both at initial occupancy and during the term of the lease (annually and emergency). The HQS checklist used by the TBI Housing Subsidy Program and completed by the Service Coordinator and/or RRDC is consistent with the checklist used by HUD. Living arrangements must pass the HQS inspection **before** the beginning date of the subsidized lease. (attachment #4)

When utilities are included in the lease, heat must be at least supplied from October 1 through May 31 or as conditions warrant. Landlords must provide all tenants with both hot and cold water. Local codes may provide additional conditions. Before signing a lease requiring payment of individual heating and cooling bills, prospective tenants should receive from the landlord a summary of the past year's bill.

Tenants/participants may keep pets in their apartments unless specifically prohibited in their lease. Landlords may be able to evict tenants who violate a lease provision prohibiting pets and their housing subsidy may also be terminated for this lease violation. Pets cannot present a nuisance or interfere with other tenants and cannot damage the apartment. Guide and service/assistance animals are permitted regardless of the no-pet clause in the lease. Assistance animals are a means to provide a reasonable accommodation for an individual with a disability, but a person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal. The landlord/owner is permitted to verify that the individual requesting the assistance animal is a person with a disability and that the animal is needed to assist with the disability.

Tenants/participants in multiple dwellings can install and maintain their own locks on their apartment entrance door in addition to the lock supplied by the landlord. Failure to provide the landlord with a duplicate key if requested, *may* be construed as a violation of the lease and could lead to eviction proceedings.

Requirements and Guidelines for Inspections

When a request for a rental subsidy is submitted to the RRDC, the unit being considered must be available for inspection. The housing subsidy cannot be approved without an approved Housing Quality Inspection.

The Service Coordinator will inspect all units to ensure that they meet HQS guidelines. No unit will be subsidized unless HQS is met. Units will be inspected at least annually by the Service Coordinator, and at other times as needed, to determine that units meet health and safety standards.

The Service Coordinator and RRDC must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and landlord/owner will be notified of the inspection appointment.

If the landlord/owner or participant misses the scheduled inspection and fails to reschedule the inspection, the Service Coordinator/RRDC will schedule one more inspection prior to notifying the participant that the subsidy cannot go forward.

All utilities should be in service prior to the Service Coordinator inspection. If the utilities are not in service at the time of inspection, either the Service Coordinator or RRDC staff will schedule a re-inspection, or the landlord/owner and tenant/participant will both certify that the utilities are operable and functioning and the participant has full access of the premises.

Following are the types of inspections the Service Coordinator will perform:

- **Initial:** an inspection that must take place to insure that the unit passes HQS before the subsidy can begin;
- **Annual:** an inspection to determine that the unit continues to meet HQS; this inspection must be conducted at the time of the annual housing audit;
- **Complaint:** an inspection caused by receiving a complaint regarding the unit by anyone, including the tenant;
- **Special:** an inspection requested by a third party (i.e. RRDC request);

- **Emergency:** an inspection that takes place in the event of a perceived emergency; these will take precedence over all other inspections.

Tenants/participants have the right to privacy within their rental units. A landlord may enter a tenant's/participant's apartment with reasonable prior notice and at a reasonable time: to provide necessary or agreed upon repairs or services; in accordance with the lease; or to show the apartment to prospective tenants or purchasers. In an emergency, a landlord may enter the apartment without the tenant's/participant's consent. A landlord may not abuse this limited right of entry or use it to harass a tenant/participant.

Tenants/participants with disabilities who need a reasonable accommodation should notify the landlord. Structural modification of a premise cannot be made without the landlord's consent and the landlord may condition permission for the modification on the tenant, such as requiring the tenant/participant restore the interior of the premises to the condition that existed before the modification. Additional funds may be provided as security for this restoration. This condition will require prior approval from the RRDC.

Initial Housing Quality Standards Inspections (HQS)

The Service Coordinator will inspect the unit, determine whether the unit satisfies HQS and notify the participant and landlord/owner of the determination within five (5) business days of the inspection.

The initial inspection will be conducted to:

- determine if the unit and property meet HQS as defined in these Guidelines;
- document the current condition of the unit to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

The Service Coordinator will complete the Housing Quality Standards Checklist and review it with the participant. A copy of the signed document is then submitted to the RRDC prior to approval of the subsidy. The Service Coordinator may photograph the premises prior to subsidy approval and move in. The photographs will be provided to the RRDC.

If the unit fails the initial HQS inspection, the participant and landlord/owner will be advised of the needed repairs. A Plan of Correction will be noted on the HQS Checklist. Once repairs are completed, the Service Coordinator/RRDC will be notified so that another inspection may be completed.

Annual HQS Inspections

The Service Coordinator will conduct HQS inspections at the time of the TBI Housing Subsidy annual audit (at the end of the NYS fiscal year). Special inspections may be scheduled between anniversary dates.

HQS deficiencies that cause a unit to fail inspection must be corrected by the landlord or the tenant, based on who was responsible for the deficiency. A Plan of Correction will be noted on the HQS Checklist. Failure to complete the necessary repairs in a timely manner may result in termination of the subsidy.

The landlord and/or participant must allow the Service Coordinator/RRDC to inspect the unit at reasonable times with reasonable notice.

The Housing Quality Standards checklist must include documentation that the Certificate of Occupancy has been reviewed and indicate the number on the certificate. Photographs of the unit should be maintained in the participant's file.

Weekend inspections may be conducted under extenuating circumstances at the discretion of the Service Coordinator/RRDC. The Service Coordinator/RRDC will provide the participant with as much notice possible when scheduling the inspection.

Verification of HQS Deficiencies

The Service Coordinator may elect to do a re-inspection to verify that all HQS deficiencies have been corrected. A re-inspection is not necessary if the Service Coordinator can obtain verification by other means. (participant/Landlord attestation)

Other than in the case of life threatening HQS deficiencies, a Service Coordinator may accept a landlord/owner's and/or participant's written certification that the deficiencies have been corrected.

When the deficiencies are the responsibility of the participant, the landlord/owner or a representative of the landlord/owner must also certify that the deficiencies have been corrected. Failure of the participant to make the necessary repairs may result in eviction and/or termination from the Housing Subsidy.

When the deficiencies are the responsibility of the landlord/owner, the participant must also verify that the deficiencies have been corrected.

Verification that repairs were completed may be made at the next on-site inspection. No rental increases or lease renewals will be approved while repairs are pending.

Emergency Repair Items

The following items are considered an emergency and must be corrected by the landlord/owner or tenant (whoever is responsible) within twenty-four (24) hours of notice by the inspector:

- lack of security for the unit (e.g. door and window locks);
- waterlogged ceiling in imminent danger of falling;
- major plumbing leaks or flooding;
- natural gas leak or fumes;
- electrical problem which could result in shock or fire;
- no heat and the internal temperature impairs the life and safety of the participant;
- inoperable smoke detector;
- utilities not in service;
- no running hot and or cold potable water;
- broken glass where someone could be injured;
- obstacle which prevents tenant's entrance or exit; and
- lack of functioning toilet and bathing facilities.

In cases where there is leaking gas, potential of fire, or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the Service Coordinator/Participant/RRDC.

In the case of vermin, bed bugs, and/or other infestations, landlords/owners must provide a plan and time frame for remediation, within twenty-four (24) hours of being notified of the problem. Housing Subsidy funds may be used to house or relocate the participant on an emergency basis pending the resolution of the problem or to replace damaged items. In cases where the TBI Housing Program is subsidizing the remediation of the infestation, bids must be secured prior to approving the subsidy request. The TBI Housing Subsidy Program will not provide funds to maintain a participant's items in storage unless in extreme circumstances and a specific justification is provided and approved by NYSDOH.

If the emergency repair item(s) are not corrected in the period required by the RRDC and the landlord/owner is responsible, the TBI Housing Subsidy payment may be abated, or may be terminated on a permanent basis.

Re-inspections

The Service Coordinator/RRDC may schedule a re-inspection of the unit. A prior notification of the re-inspection will be provided to the landlord and the participant. The notice may contain a warning that payments will be abated (in the case of landlord/owner's responsibility), or a warning of intent to terminate the subsidy (in the case of participant's responsibility).

Rent Increases

Rent and rental increases to the landlord/owner may not be approved if the unit is in a failed condition and does not meet Housing Quality Standards. Requests for rent increases require prior approval of the RRDC and cannot be more than five percent (5%) of the prior year's rent unless under special circumstances approved by the RRDC prior to lease renewal. All rent increase criteria must be indicated in the lease. Failure to notify the RRDC of the change in rental amount resulting in rental arrears, late fees or penalties, may be assigned to the responsible party (participant/ Service Coordination agency or RRDC). Penalties incurred due to the Service Coordinator/participant action/inaction may not be approved for payment by the RRDC.

Lease Renewals /Move Out /Vacate Inspections

A tenant/participant may only renew the lease with the consent of the landlord/Service Coordinator and RRDC if they wish to continue to receive a subsidy. Although, a lease may contain an automatic renewal clause, payment of the increase still requires the approval of the RRDC. The landlord must give timely, written notice to the tenant/participant of the right of renewal. If the tenant/participant chooses to terminate the lease, he/she must provide written notification to the landlord/Service Coordinator/RRDC sixty (60) days prior to the lease end date.

The Service Coordinator must conduct a move-out inspection prior to the lease termination or eviction. If possible, both the tenant and landlord should be present for this inspection. The Service Coordinator will be responsible for notifying the RRDC of the status of the apartment, the return of the security and any damages incurred by the participant. The participant will be responsible for payment of damages. The Service Coordinator will photograph the condition of the unit upon departure.

The Service Coordinator/RRDC will notify the landlord/participant in writing of the date of the TBI Housing Subsidy termination. The TBI Housing Subsidy will not be responsible for the cost of any damages other than the retention of the security deposit. Failure of the participant to pay for damages may result in denial of any future support.

Lead Based Paint, Asbestos, Mold and Radon

Housing built before 1978 may contain lead based paint. Lead exposure is especially harmful to young children and pregnant women. Lead from paint chips and dust can pose health hazards if not taken care of properly. Before a tenant rents a unit that is pre-1978 housing, the landlord must disclose the presence of lead based paint and lead based paint hazards in the unit. Tenants must also receive a Federally-approved pamphlet on lead poisoning prevention.

Participants will **not** be allowed to move into a unit unless it passes the Housing Quality Standards (HQS) inspection. All deficiencies must be remedied prior to occupation of the unit. Landlords must protect against the possibility that a tenant will be poisoned by peeling of

dangerous lead-based paint, asbestos and radon. Apartments with lead based paint, radon, mold and asbestos hazards must be remedied prior to occupancy.

Smoke and Carbon Monoxide Detectors

At least one battery operated or hard wired smoke detector must be present and working on each level of the living arrangement and within 10 feet of the each room used for sleeping. The smoke detector must be audible in the bedroom space. Smoke Detectors must be installed in all housing units for which a TBI Housing Subsidy is provided. A combination smoke/carbon monoxide detector is preferred but not required. Service Coordinators will periodically test smoke detectors during their home visits with participants. Inoperable smoke detectors are a serious health/safety threat and will be treated by the Service Coordinator /RRDC as an emergency repair item. If the smoke detector is not operating properly, the Service Coordinator/participant will contact the landlord/management company by phone and request the smoke detector be repaired within twenty-four (24) hours. The Service Coordinator will verify that the repairs have been made in the unit the day following notification of the complaint.

If the Service Coordinator/landlord/owner determines that the participant has disconnected the smoke detector (by removing batteries or other means), the participant will be required to repair the smoke detector within twenty-four (24) hours, and the Service Coordinator will re-inspect the unit the following day. The Housing subsidy will not support expenses related to this action.

Landlords have the right to charge a maximum of \$10.00 from tenants for newly installed battery operated smoke detectors.

Existing one and two family, cooperative or condominium residences constructed prior to January 1, 2008 must have at least a battery operated carbon monoxide detector on the lowest floor of the residence having a sleeping area while homes built after this date are required to have the alarms hard-wired into the building.

New York City requires the installation of carbon monoxide detecting devices within proximity of sleeping rooms in apartments and private homes. Landlords have the right to charge a maximum of \$25.00 from tenants for newly installed battery operated carbon monoxide detectors. Check local ordinances to confirm requirements. Many management companies have an affidavit of installation available for review.

Moves with Continued Assistance

A participant may move to a new unit if the subsidized lease for the old unit has terminated or the participant's individual needs warrant a new living situation. These conditions include:

- landlord/owner of the property has not complied with the conditions of the TBI Housing Subsidy program; or
- the lease has been terminated by mutual agreement of the landlord/owner and the tenant/participant; or
- the landlord/owner has given the tenant/participant a notice to vacate, or has commenced an action to evict the tenant/participant, or has obtained a court judgment or other process allowing the landlord/owner to evict the tenant/participant; or
- the tenant/participant has provided the landlord/owner proper notification of his/her plan to end the lease after its full term.

If the tenant/participant terminates the lease, the participant must give the Service Coordinator/RRDC a copy of the notice to the landlord/owner.

Participants wishing to move to another apartment and continue their participation in the Housing Subsidy program must:

- Notify Service Coordinator/RRDC of desire to move at least sixty (60) days prior to lease termination date and receive prior approval from the RRDC for costs associated with the move;
- Follow standard lease termination procedures;
- Work with the Service Coordinator to find a new living situation that is within Fair Market Value guidelines, or “cost neutral” to the TBI Housing Subsidy Program, i.e. the new arrangement cannot exceed the current costs;
- Exhaust all informal and community resources prior to requesting assistance for moving expenses or emergency assistance; and
- Ensure the new unit meets HQS standards.

Participants will **not** be permitted to move more than once in a twelve (12) month period unless the Service Coordinator/RRDC approves the move based on a documented reason over which the participant has no control (e.g. landlord/owner’s failure to correct life/safety violations, notice from Service coordinator/RRDC).

The TBI Housing Subsidy will not support costs to keep participants’ furnishings in storage during a move or at the termination of a lease.

The RRDC may deny to subsidize a move if:

- the participant has violated the terms of their lease agreement and the provisions of the TBI Housing Subsidy program;
- return of the security deposit has been denied due to actions by the participant;
- excessive moving costs are incurred as a result of the move.

Participants are required to give proper written sixty (60) day advance notice of intent to terminate the lease. The participant is required to give the Service Coordinator/RRDC a copy of the notice to terminate the lease at the same time it gives the notice to the landlord/owner. The request to terminate must include a statement explaining the reason for the lease termination and must be signed by tenant/participant and landlord. If the participant moves from the unit before the initial term of the lease ends without the landlord/owner and RRDC approval, it will be considered a serious lease violation and will be subject to termination from the TBI Housing Subsidy Program. Any costs or overpayments incurred due to failure to properly notify the landlord, RRDC and Payment Agent may be charged back to the participant and/or Service Coordination agency.

Co-signing for a Waiver Participant’s Lease

The TBI waiver program encourages landlords to accept the signature of the waiver participant on a lease. If a co-signature is required, a family member, power of attorney, and/or Trustee should be encouraged to assume this responsibility. When this is not possible, the Service Coordination agency may be asked by the landlord to function as the co-signer for the waiver participant. NYSDOH does not require any entity to co-sign a lease. Landlords/owners usually dispense with the co-signature at the time of lease renewal if the waiver participant has successfully met the terms of the lease. Any costs incurred as a co-signatory will not be assumed by the TBI Housing Subsidy. NYSDOH does not provide letters of guarantor, indicating that the TBI Housing Subsidy is responsible for the rent for a unit.

TBI Housing Subsidy funds may be utilized to pay for credit checks and reference confirmations. Payment must be made directly to the landlord/owner. Many of TBI waiver participants do not have the extra funds to pay for this expense.

Housing Supports

Housing Support Funds are a one (1) time allocation intended to assist the waiver participant with household items needed to establish a home in the community. TBI Housing Subsidy

funds are only to be used as a last resort. TBI Housing Subsidy Program funds are also available for basic housing supports e.g. those basic items needed by an individual to occupy a residence, including furniture, basic kitchen appliances, pots, linens and various basic household items. Household goods may include pots and pans, cooking utensils, dishes, microwave, towels and sheets, lamps, and basic furniture such as bed, couch, chairs, dining. Housing support funds are not to be provided for air conditioners or luxury items such as designer furniture or expensive appliances.

Housing Support funding is not available for construction or capital projects. Housing support funds may be utilized for “one (1) time” expenses such as broker’s fees, moving expenses or to other exigent circumstances, such as emergency payments, extermination of pests, or to address other health related conditions that are not the responsibility of the landlord/owner. These expenses must be reviewed and approved by the RRDC on a case-by-case basis when all other resources have been exhausted. Other resources such as Supplement Needs Trusts, family and community agencies should be explored before requesting Housing Support Funds. Checks will be provided directly to the provider or through the Service Coordination agency and will not be issued directly to the participant.

There may be some situations when the individual has been receiving TBI waiver services for more than five (5) years and replacement of some items is necessary. Housing supports may also be provided in certain circumstances where the participant has experienced personal losses due to no fault of their own (e.g. fire). These requests must be reviewed by the RRDC and approved in conjunction with NYSDOH on a case-by-case basis.

Waiver participants are eligible for a maximum \$1,200 for housing supports if already living in the community, and \$1,600 if moving from a residential facility. Payment may be made directly to a vendor or to the Service Coordination agency purchasing the items on behalf of the waiver participant.

TBI waiver participants transitioning from a nursing home to their own home in the community may be eligible for waiver Community Transitional Services (CTS) funding. CTS assistance must be accessed by eligible individuals prior to applying for a rental subsidy, housing supports and/or moving expenses. Costs may not exceed \$3,000, including an administrative fee payable to the CTS provider. Upon termination of the lease, all security payments made on behalf of the participant through CTS services will be returned to the CTS provider and a paid claim adjustment through eMedNY will be implemented.

Real Estate Brokers

A participant may retain a real estate broker to find a suitable living arrangement. New York State licenses real estate brokers and salespersons. Brokers charge a commission for their services which is usually a stated percentage of the first year’s rent. The amount of the commission is not set by law and should be negotiated between parties and approved by the RRDC prior to signing the written agreement. The broker must assist the participant in finding and obtaining the apartment before a commission may be charged. The fee should not be paid until the participant is offered a lease signed by the landlord. The broker and/or landlord may also charge a reasonable amount to conduct a credit check. A copy of the broker’s license, the broker/salesperson’s completed W-9 IRS form and the broker’s agreement must be provided to the RRDC with the request for payment. A W-9 form is required for any payee receiving more than eight hundred ninety-nine dollars (\$899.) or more through the Payment Agent.

Apartment list services that charge a fee for providing information about the location and availability of apartments will not be paid through the TBI Housing Subsidy Program.

Lobby Attendant Service

Tenants of multiple dwellings with eight or more apartments are entitled to maintain a lobby attendant service for their safety and security at their own expense. The TBI Housing Subsidy will not support this expense.

Obtaining Funding for Household goods

TBI Housing Subsidy Program funds will be paid directly to the landlord/owner; the utility company(s) or vendor (household goods) by the Payment Agent. Vendors are required to provide the Payment Agent a W-9 IRS form prior to receiving payment. A W-9 form is required for any payee receiving more than eight hundred ninety-nine dollars (\$899.) or more through the Payment Agent.

The Service Coordinator will assist the waiver participant in obtaining the necessary household goods and submitting copies of all receipts payable to the agency for reimbursement with the payment request application. The Service Coordination agency and the Service Coordinators are responsible for ensuring that funds are used for items approved by the RRDC. Household goods may be purchased from local stores and placed on layaway.

It is necessary to obtain approval for housing support funds prior to the purchase of the items. A list of all items and their cost must be submitted with the payment request to RRDC for approval.

Checks for approved purchases will then be issued by the Payment Agent to the vendor or reimbursed to the Service Coordination agency making the purchase on behalf of its service recipient. Under no circumstances will a check be issued to the participant. It is the responsibility of the Service Coordination agency to obtain receipts for ALL items purchased

When Advance Payments are made, all housing support funds must be used within ninety (90) days. Any balance remaining after ninety (90) days must be returned to the Payment Agent.

The Service Coordination agency is responsible for accurately accounting for the use of the funds by way of receipts for each item purchased. Copies of the receipts should be maintained in the waiver participant's file along with the Household Goods Actual Expenditures form. (attachment #5) NYSDOH or its representatives may request an audit of these funds at any time.

TBI Utility Subsidies

The TBI Housing Subsidy may subsidize a portion of a participant's monthly utilities, when financial need is verified. This includes gas, electric, propane and/or oil when no other funding support is available.

Utility subsidies, assist with payments of utility costs for heat and electricity, are contingent on individual financial need and funding availability. When a need is demonstrated, the TBI Housing Subsidy Program may subsidize up to two-thirds (2/3) of the budgeted amount based on annual usage, payment plan minus any other subsidy (HEAP). The waiver participant is required to pay the remaining one-third (1/3) of the budgeted utility cost. The TBI Housing Subsidy Program does not provide support for internet and/or cable fees. Participants are required to establish a monthly budget payment plan, if they are seeking a utility subsidy. Service Coordinators are responsible to confirm balances on the budget plans at least every six (6) months or whenever the participant's service plan is amended or the participant moves, to ensure that over payments are not occurring. All utility vendors must submit a W-9 IRS form prior to payment. A W-9 form is required for any payee receiving more than eight hundred ninety-nine dollars (\$899.) through the Payment Agent.

Note: Upon issuance of these guidelines, the program will not subsidize water and/or sewer bills. Landline telephones will only be subsidized when the location of the participant does not support cell phone usage, or the landline is necessary to support the health and safety of the participant (PERS systems). All current subsidies of this nature will be “grandfathered in,” but will not be transferred to new residences.

Utility Payment Policy

In cases where two waiver participants share living space, the budgeted amount will be divided in half, the TBI Housing Subsidy Program will pay two-thirds (2/3) of that amount. A payment request must be completed for each consumer residing in the home and a copy of the bill must be provided with each request. The request must specify the name of the account holder, address and account number. All utility subsidies must be recalculated when an application for the Home Energy Assistance Program (HEAP) is approved.

In situations where a waiver participant shares living space with a non-waiver participant, the non-waiver individual is responsible for one-half of the total bill. The TBI Housing Subsidy Program will pay two-thirds (2/3) of the waiver participant’s half of the bill. The payment request should specify the name of the account holder, address and account number.

It is the responsibility of the Service Coordinator to review a payment plan with the waiver participant(s) and regularly monitor payments to prevent loss of service due to lack of payment. Service Coordinators must complete a review of account balances at least every six (6) months, or whenever the participant’s service plan is updated or the participant moves. Should an account accrue a credit of five hundred dollars (\$500.) or more, the utility subsidy will be suspended until such time that the credit is spent down to seventy-five dollars (\$75.) or less.

Disapproval of Landlord/Owner

The RRDC may deny participation by a landlord/owner in the TBI Housing Subsidy Program for any of the following reasons:

- the landlord/owner has a history or practice of non-compliance with housing quality standards for units leased and has consistently failed to make needed repairs;
- the landlord/owner has a history or practice of renting units that fail State or local codes and do not have a Certificate of Occupancy;
- the landlord refuses to complete required IRS information necessary for 1099 reporting;
- the landlord refuses to provide the participant a lease.

Should a landlord refuse or fail to submit a W-9 IRS form to the Payment Agent, the participant will be required to seek a new housing situation. A W-9 form is required for any payee receiving more than eight hundred ninety-nine dollars (\$899.) through the Payment Agent.

The landlord/owner is responsible for screening and selection of the participant to occupy the living arrangement. The Service Coordinator/RRDC will not be liable or responsible to the landlord/owner or other persons for the participant’s behavior or his/her conduct as a tenant.

Housing Support funds may be utilized to pay for credit and background checks necessary to effectuate the lease, if no other available funds exist.

The cost of meals or supportive services may not be included in rent paid to the landlord/owner.

The lease may not require the tenant or family members to pay for ancillary services, and the landlord/owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

Obligations of the Participant (Tenant)

Each recipient is requested, as part of the housing application, to sign a Waiver Participant Attestation delineating his/her responsibilities to provide complete and accurate information. The Service Coordinator is responsible for reviewing the rights and responsibilities with the participant and answering questions prior to having the participant sign the Waiver Participant Contract. This document is completed when the subsidy is approved and is updated on an annual basis and whenever a participant moves. (attachment #6)

- The participant must supply any information that the landlord, Service Coordinator, RRDC, or NYSDOH determines as necessary in the administration of the program, Any information supplied by the participant must be true and complete.
- The participant is responsible for any breach in housing quality standards that is the result of activities by household members or their guests, beyond normal wear and tear or acts of nature.
- The participant/landlord must allow the Service Coordinator/RRDC to inspect the unit at reasonable times and after reasonable notice.
- The participant and co-habitant(s) may not commit any serious or repeated violation of the lease including but not limited to:
 - Failure to make payment of rental share;
 - Failure to maintain the unit in a safe and sanitary manner;
 - Failure to maintain the right to peaceful enjoyment by neighbors.
- The participant must promptly give the Service Coordinator/RRDC a copy of any landlord/owner eviction notice.
- The participant must use the subsidized unit for their sole residence. The unit must be the participant's only residence.
- Any co-habitants and roommates residing in the subsidized living arrangement must be approved by the landlord/Service Coordinator/RRDC.
- The participant must promptly inform the Service Coordinator/RRDC of any changes to the household composition.
- The participant must request Service Coordinator/RRDC approval to add any other member as an occupant of the unit.
- The participant must not assign the lease, sublease or transfer the unit.

Information the Participant Must Submit Upon Change at lease renewal or thirty (30) days prior to the change, whichever is sooner.

- Increase/Decreases in Income
- Change in household composition
- Change of mailing address
- Change in Medicaid eligibility or waiver eligibility status
- Criminal convictions

Annual Audit

An annual reexamination of eligibility for the Housing Subsidy must be completed for each participant. The review must be completed in conjunction with the NYSDOH state fiscal year (April 1-March 31) on an annual basis. The audit may be completed more frequently at the request of NYSDOH

Information included in the annual review must include:

- Eligibility for TBI Waiver services (including Medicaid eligibility)
- Approved current Service Plan and active participation in services
- Updating the Participant Profile and Landlord information
- Annual income and other household support (Income Attestation)

- Review and/or recalculation of the budget
- Special Needs Trust status and any relevant housing cost information
- Participant's compliance with the standards of the Housing Subsidy Program
- Review and signature of Waiver Participant Contract
- Confirmation of subsidy amounts
- Landlord verification of tenancy, lease term and renewal dates, Certificate of Occupancy, and W-9
- Status of paid utilities and copy of most recent bill
- Annual inspection of the home and completion of HQS

The Service Coordinator and RRDC will conduct an annual audit of all participants receiving a TBI Housing Subsidy. The RRDC may conduct a home visit to confirm the status of the rental property and meeting with the participant.

If the participant fails to respond to the request for information, a notice must be sent to the participant and Service Coordinator informing them that they have failed to submit the required information for review.

A termination notice from the Housing Subsidy program will be sent if the participant/Service Coordinator fails to respond to the second notice,

The RRDC will also conduct an annual audit of its internal housing processes in order to insure that TBI Housing Subsidy Program recipients continue to warrant the program; insure that required documents are current; expenditures are within budget guidelines; and payments are within subsidy guidelines. All housing subsidy transactions must be reviewed by the RRDC on a monthly basis to confirm eligibility for the subsidy, payments made, and outstanding recoupments and to identify inconsistent payment information.

Failure of the Service Coordination agency and/or the RRDC to properly audit the subsidy that results in overpayments or late fees may be charged back to the agency. Failure of the participant to provide proper notification of changes may result in overpayments or late fees may be charged back to the participant or termination from the TBI Housing Subsidy Program.

Rent Payments

Late Payments

A payment will be considered in arrears if the payment has not been received by the landlord/owner by the close of business on the day in which the payment due date is noted on the lease or utility bill. The TBI Housing Subsidy Program will only reimburse late fees as provided for in the participant's lease and only if the delay of payment was due to the fault of NYSDOH or its Payment Agent.

The TBI Housing Subsidy Program will not subsidize rent and/or utility arrears. Service Coordinators will advise participants of this policy and assist individuals to address arrears by applying to the Local Department of Social Services for assistance. In order to insure that the participant is maintaining their share of rental payments, the Service Coordinator will review rental journals and bills on a periodic basis with the waiver participant to insure there are no rent arrears. This activity can be done in conjunction with Independent Living Skills Training (ILST) services if available.

Should rent arrears occur, the Service Coordinator must assist the waiver participant in arranging for back payment. The Service Coordinator must also advise the participant that failure to pay their portion of the rent/utility may result in the termination of their housing subsidy in accordance with their signed Waiver Participant Contract. The Service Coordinator must also inform the RRDC that there is a rent payment problem so the situation may be tracked. All

arrears payments require the prior approval of the RRDC.

If the TBI Housing Subsidy Program agrees to pay a participant's portion of unpaid rent, the subsidy will be decreased and the participant portion paid to the landlord/owner will increase to meet the total rent due. The increased amount will be credited to any arrears payment. The participant is responsible for reimbursing the TBI Housing Subsidy Program for the amount of any payments made on their behalf. A repayment agreement will be arranged and signed by the participant and submitted to the RRDC for approval and the subsidy adjusted.

If a non-waiver individual living with a waiver participant is in arrears on his/her portion of the rent/utility, the individual will be notified by the Service Coordinator that they must either meet the terms of the lease or vacate the apartment. The Service Coordinator will notify the RRDC of this communication.

Overpayments

The RRDC is responsible for determining if an overpayment has occurred and *if* it is collectable. If it is determined that a refund is collectable, the RRDC will send a letter to the payee and notify the Payment Agent via e-mail regarding the status of the letter and the overpayment.

The RRDC and Service Coordinators are responsible and accountable for prudent spending and monitoring of the TBI Housing Subsidy funds. All overpayments and security deposits to landlords and utility companies should be recouped. The RRDC and Service Coordinator are jointly responsible for this activity. Failure of the Service Coordination agency and/or the RRDC to properly monitor the subsidy resulting in overpayments, may be charged back to the agency. Failure for the participant to provide proper notification of changes that may result in overpayments or late fees may be charged back to the participant or termination from the TBI Housing Subsidy Program.

Security deposits and recouping overpayments

The landlord/owner may collect a security deposit from the tenant in accordance with NYS and local tenant law as well as standard private market practice. Virtually all leases require tenants to give their landlords a security deposit. The security deposit is usually one month's rent. If a lease is renewed at a greater amount or the rent is increased during the term of the lease, the landlord is permitted to collect additional money from the tenant in order to bring the security deposit up to the new monthly rent. A landlord may use the security deposit as reimbursement for the reasonable cost of repairs beyond normal wear and tear, if the tenant damages the apartment, or as reimbursement for any unpaid rent.

If the individual is transitioning from a nursing home, the security deposit may be paid by the TBI waiver Community Transitional Service (CTS). Upon the lease termination the security deposit will be returned to the CTS provider. The CTS provider will then initiate a paid claim void/adjustment through eMedNY. Instructions for this process are available on the eMedNY website.

When the TBI Housing Subsidy has paid the security on behalf of the participant, the landlord **must return the security deposit, less any lawful deduction to the Payment Agent, not the tenant**, at the end of the lease and within a reasonable time. The landlord is obligated to return the security whether or not the participant/Service Coordinator/RRDC requested the return.

If a building/apartment is sold, the landlord must transfer all security deposits to the new owner or return the funds to source of the security payment (the tenant/participant/Payment Agent.) Landlords must notify the tenant/participant of the name and address of the new owner.

NYSDOH understands that there may be circumstances that warrant the retaining of a security deposit by a landlord/owner.

Upon termination of the lease, if the security deposit is not sufficient to cover amounts the tenant owes under the lease, the landlord/owner may seek to collect the balance from the tenant. The TBI Housing Subsidy Program will not pay for any damages beyond the cost of the security. The Service Coordinator is responsible to inspect the unit prior to initiating the lease and upon termination of the lease, and to inform the RRDC of the plan to secure return of the security deposit. In the case of damage to the unit, the RRDC will notify the Service Coordinator and/or participant of the intent to seek repayment from the participant for the lost security. Failure to properly complete inspections and to notify the RRDC of the condition of the unit may result in loss of revenue charged back to the Service Coordination agency.

When the RRDC determines that the security deposit should be returned, a letter will be sent requesting the refund and the Payment Agent will be notified of the request. If the overpayment or security deposit has not been received by the Payment Agent, within four (4) weeks of the request, the RRDC will contact the Service Coordinator/landlord/utility provider and determine a course of action.

If, in the judgment of the Service Coordinator/RRDC pursuit of security recoupment is warranted, a second letter should be sent restating the responsibility of the landlord/payee to return the overpayment to NYSDOH.

When an overpayment or security deposit is returned to the Payment Agent, the RRDC will be notified of the amount received by the Payment Agent.

The Payment Agent will maintain a database by region or utilize the web portal to track all payments, overpayments and security deposits. A TBI Housing Subsidy Program report will be available to NYSDOH TBI waiver management on a monthly basis. The RRDC will track the recoupment of funds via reports provided by the Payment Agent.

In the case of overpayments due to Payment Agent error, the Payment Agent will be responsible for following up on the overpayments and letters sent to the payees. The Payment Agent may need to communicate with the RRDC and waiver management staff to determine the most appropriate course of action.

If payments have been made to the participant, the RRDC will take necessary steps to recoup the payment from the participant. If necessary, a re-payment plan will be established.

If funds are not returned to NYSDOH within ninety (90) days, a decision will be made by the RRDC and NYSDOH waiver management staff to seek further action.

Housing Forms and Instructions

The following forms and instructions are to be used when an individual requires a subsidy. The RRDC may assist in answering questions about completing the forms. Due to the amount of data entered via the web portal, every attempt has been made to reduce the amount of paper documentation. Any questions regarding the use of the web portal can be directed to the RRDC and/or the Payment Agent. All requests and updated information must be submitted via the web portal for review and approval prior to payment. All supporting documentation must be uploaded to web portal for review and to support funding requests.

Payment Request form and Narrative (attachment #2)

This document provides the RRDC with important necessary information to review, approve and process the various components of the housing application. The justification narrative must be submitted with all requests for subsidies or supports. This narrative must clearly demonstrate the need for the subsidy and describe the circumstances associated with the request for funding. This form is used for Initial Housing and Utility Applications, one-time

payment requests (household goods, security, late fees arrears payments) and change in status (increase, decrease).

Budget Form (attachment #7)

This form is used to identify all income and expenses for the waiver participant and to plan a household budget. The amounts reflected are used to calculate the subsidy amounts.

Household Goods Actual Expenditures (attachment #5)

This document provides the RRDC with an accounting of the actual purchases made with housing support funds. Copies of all receipts must be attached.

Waiver Participant Attestation (attachment #6)

This document is used at the time the participant/applicant initially requests a subsidy. It verifies that the participant is providing true and complete information related to their subsidy application. The participant attests that all information provided to the RRDC and Service Coordinator regarding household composition, personal assets, income, are accurate and complete. The document is signed by the participant and Service Coordinator.

Waiver Participant Contract (attachment #8)

This document informs the waiver participant of his/her responsibility to abide by the basic expectations of tenancy for landlords and tenants under the NYSDOH TBI Housing Program. The document is signed by the participant and Service Coordinator.

Housing Quality Standards (HQS) Checklist (attachment #4)

Housing Quality Standards (HQS) are minimum standards for tenant-based programs and are required both at initial occupancy and during the term of the lease. The HQS checklist used by the TBI Housing Subsidy Program is consistent with the checklist used by HUD. Newly leased units must pass the HQS inspection **before** the beginning date of the subsidized lease. The HQS is completed as an initial inspection, annually in conjunction with the annual audit, when emergency repairs are required and whenever a participant moves.

Supporting Documentation

There are a number of documents that must be provided to the RRDC prior to approval of a TBI Housing Subsidy. These documents must also be up-loaded to the web portal and included in the participant profile.

Waiver Participant Attestation: This signed document certifies that all information provided to the RRDC is true and correct. Completed at the time of initial payment/subsidy request and at the time of annual audit.

Waiver Participant Contract: confirms the waiver participant's understanding of their rights and responsibilities associated with receipt of any TBI Housing Program Support. The document is completed and signed by the participant and Service Coordinator at the time the subsidy is approved, annually during the audit process and whenever a participant moves to a new location.

Payment Request Form: confirms the waiver participant and payee demographic information provided in the web portal. It also provides the calculation for the actual subsidy and one-time payment amount(s). A list of any requested household purchases must be attached. Also attached is a list of all adults and children (with ages) residing in

the home.

Income verification: copies of all documents confirming the participant annual/monthly income. This information is attached to the Waiver Participant Attestation and may also be attached to the Budget Worksheet. Information must reflect income within the year that the participant is seeking the subsidy and is completed annually at the time of audit.

Monthly Budget Worksheet: a copy of the worksheet confirming income and expenditures. This document confirms the participant's attestation of assets and income.

Trust information: a copy of any special needs trust maintained on behalf of the participant.

Lease: the signed lease in effect for the current year. All leases must be for one year. All rental subsidies require a signed lease.

W-9 Forms: A W-9 form is required for any payee receiving more than eight hundred ninety-nine dollars (\$899.) through the Payment Agent.

Housing Quality Standards (HQS) Checklist: must reflect the residence address indicated on the lease. The HQS is completed as an initial inspection, annually in conjunction with the annual audit, when emergency repairs are required and whenever a participant moves.

Certificate of Occupancy: must reflect the address approved for the housing subsidy and reflected on the HQS.

Household Goods Actual Expenditures Form: a copy of the form and all receipts for approved purchases.

Each document is to be uploaded to the web portal separately and coded as directed by the RRDC. All information is to be updated annually.

Discontinuation of Housing Subsidies

Insufficient Funding: NYSDOH in conjunction with the RRDC may terminate the TBI Housing Subsidy Program when State funding for the program is insufficient to support continued assistance for participants,

Loss of TBI Waiver Eligibility:

A participant must be eligible for waiver services and actively participating in waiver services to receive a rental subsidy or housing supports.

A Notice of Denial or Discontinuation is sent to an individual who is not or no longer eligible to receive waiver services including but not limited to the following reasons:

- The participant chooses not receive or participate in waiver services.
- The participant is:
 - not Medicaid Eligible.
 - not assessed to be nursing home level of care.
 - not able to be safely served in the community.
- The participant chooses to receive services from another Home and Community Based Medicaid Waiver.
- The participant is hospitalized for more than thirty (30) days and there is no scheduled discharge date.

- The participant is admitted to a nursing home, psychiatric facility or other institution for other than a short term.
- The participant is incarcerated for more than thirty (30) days.

When an individual is no longer eligible to participate in the TBI waiver, they become ineligible for housing subsidies. If this is a temporary situation, for example the individual returns to a nursing home or enters inpatient rehabilitation, the RRDS may wish to continue the housing subsidy to hold the living arrangement for up to three months while evaluating a more permanent plan for the individual. When the participant indicates that he/she agrees with the discontinuation of TBI Waiver services, the participant's housing subsidy will terminate thirty (30) days (with one intervening first of the month) from the effective date of the TBI waiver Notice of Discontinuation.

When a TBI waiver recipient is sent a Notice of Discontinuance from the waiver and timely requests a Fair Hearing and aid to continue, his/her housing subsidy will remain in place until the issuance of a Decision After Fair Hearing denying waiver benefits. Or if the Decision After Fair Hearing grants the recipient's request to continue to receive waiver benefits, the housing subsidy will continue.

Timeline sequence for termination of housing subsidy:

- 10 Day Notice of Discontinuation from Waiver:
 - Participant will be advised that housing subsidy will be terminated with waiver services.
 - Participant will be advised he/she has 60 calendar days to seek a fair hearing and must request Aid Continuing by the effective date of the Notice of Decision. The subsidy will continue through the period allowed to request the fair hearing (60 days).
- If Aid Continuing is granted, the housing subsidy continues.
- If the participant does not request a Fair Hearing, the housing subsidy will be terminated one month following the last available date to request a Fair Hearing (with one intervening first of the month). At this time the landlord/owner will be informed by the RRDC the date the subsidy will cease.
- If the Fair Hearing decision affirms the RRDC decision for discontinuation, the housing subsidy will be continued for the next two successive months following the Fair Hearing decision. At the time of the Fair Hearing decision, the landlord/owner will be informed by the RRDC of the date the subsidy will cease.

When the participant is discontinued from the TBI Medicaid waiver, it is the responsibility of the participant/Service Coordinator to also notify the landlord in writing that the housing subsidy is being terminated and to confirm an alternative payment process. Notification must be completed in sufficient time to avoid any additional costs to the Housing Subsidy program. Should the participant and/or Service Coordinator fail to properly notify the landlord of the subsidy termination, any costs incurred as a result of insufficient and/or proper notification may be charged to the participant and/or Service Coordination agency.

At the time notification of termination is provided to the landlord/owner, the NYSDOH Payment Agent must also be notified that the participant has been discontinued from the TBI Housing Subsidy Program. The RRDC will send a confirmation letter to the landlord/owner and copy the Service Coordinator/participant. The date of final payment will be included in the notification and the RRDC will request that all security funds be returned to the Payment Agent.

Termination of a Housing Subsidy with continued waiver eligibility

The RRDC may deny assistance for a housing subsidy applicant or terminate assistance for a participant under the program because of the participant's action or failure to act. The RRDC may consider all of the circumstances in each case, including the seriousness of the case, the

extent of participation or culpability of the participant and/or individual family members, and the effects of denial or termination of assistance on the participant. The RRDC is encouraged to enlist the assistance of the Service Coordinator as may be appropriate.

The RRDC, at any time, may deny the TBI Housing Subsidy Program for a waiver participant for any of the following reasons:

- Violation by the participant of any obligation under the program;
- Failure to complete required documentation and financial information;
- Commission of crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity, violent sex crimes or any crimes that adversely affects the health, safety or wellbeing of the participant, other residents or staff;
- Activities that cause damage to the property in excess of normal wear and tear;
- Failure to pay rent or utilities for which the participant is responsible;
- Fraud, bribery, or any other corruption in connection with any housing subsidy assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived therefrom;
- Eviction from the subsidized residence;
- Illegal use by any family member of a controlled substance or abuse of alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents or in the immediate vicinity of the premises;
- Illegal use of controlled substance or alcohol, if the RRDC finds that a current household member was convicted or incarcerated for any alcohol-related or drug-related criminal activity that took place on or near the premises;
- Knowledge that the participant or current household member was convicted or incarcerated for any alcohol or drug-related criminal activity that took place on or near the premises.

The RRDC *may* waive the requirement to terminate if:

- the participant demonstrates to the satisfaction of the RRDC that they are no longer engaging in illegal or inappropriate activity;
- the participant has successfully completed a supervised drug, mental health or alcohol rehabilitation program;
- the participant has otherwise been rehabilitated successfully; or is participating in a supervised drug or alcohol rehabilitation program;
- the participant has reimbursed NYSDOH and/or the landlord/owner for any fees/penalties or damage repairs; or
- the RRDC may impose specific conditions or requirements in order for the subsidy to continue.

When the RRDC seeks to terminate the TBI Housing Subsidy, a copy of the notification will be sent to the participant, Service Coordinator and landlord. The notice will include the specific date the subsidy will be terminated and the reason for the action. Termination from the TBI Housing Subsidy Program is not an eviction proceeding. The landlord/owner will be notified by the RRDC of the intent to terminate the subsidy and the effective date. The housing subsidy will terminate sixty (60) days from the date the notice is received by the participant. The date on which the notice is deemed received by the participant is the date the first class letter is mailed or the date the notice is hand delivered to the participant

The RRDC will be available for a case conference to consider whether the decision relating to the participant's circumstances are in accordance with the program guidelines and TBI Waiver policies.

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